

House Study Bill 633 - Introduced

HOUSE FILE _____

BY (PROPOSED COMMITTEE ON
VETERANS AFFAIRS BILL BY
CHAIRPERSON ZIRKELBACH)

A BILL FOR

1 An Act relating to assignment of visitation of a child to a
2 family member when a parent is serving active duty in the
3 military service of the United States.
4 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

1 Section 1. NEW SECTION. 598.41D Assignment of visitation
2 — parent serving active duty — family member.

3 1. Notwithstanding any provision to the contrary, a parent
4 who has been granted court-ordered visitation with the parent's
5 minor child may file an application for modification of a
6 decree or a petition for modification of an order regarding
7 child visitation, prior to or during the time the parent is
8 serving active duty in the military service of the United
9 States, to temporarily assign that parent's visitation rights
10 to a family member of the minor child, as specified by the
11 parent. The application or petition shall be accompanied by an
12 affidavit from the family member indicating the family member's
13 knowledge of the application or petition and willingness to
14 exercise the parent's visitation rights during the parent's
15 absence.

16 2. a. If the active duty of a parent affects the parent's
17 ability or anticipated ability to appear at a regularly
18 scheduled hearing, the court shall provide for an expedited
19 hearing in matters instituted under this section.

20 b. If the active duty or anticipated active duty of a
21 parents prevent the parent from appearing in person at a
22 hearing, the court shall provide, upon reasonable advance
23 notice, for the parent to present testimony and evidence by
24 electronic means in matters instituted under this section. For
25 the purposes of this paragraph, "electronic means" includes
26 communication by telephone, video teleconference, or the
27 internet.

28 3. The court may grant the parent's request for temporary
29 assignment of visitation if the court finds that such
30 visitation is in the best interest of the child.

31 4. An order granting assignment of visitation rights under
32 this section does not create separate rights to visitation for
33 a person other than the parent.

34 5. An order granting temporary assignment of visitation
35 rights pursuant to this section shall terminate upon

1 notification of the court by the parent or automatically upon
2 the parent's completion of active duty, whichever occurs first.

3 6. After a parent completes active duty, if an application
4 for modification of a decree or a petition for modification
5 of an order is filed, the parent's absence due to active duty
6 or the assignment of visitation rights does not constitute a
7 substantial change in circumstances, and the court shall not
8 consider a parent's absence due to that active duty or the
9 assignment of visitation rights in making a determination
10 regarding the best interest of the child relative to such an
11 application or petition filed after a parent completes active
12 duty.

13 7. As used in this section, "*active duty*" means active
14 military duty pursuant to orders issued under Tit. X of the
15 United States Code. However, this section shall not apply to
16 active guard and reserve duty or similar full-time military
17 duty performed by a parent when the child remains in actual
18 custody of the parent.

19 EXPLANATION

20 This bill relates to the assignment of visitation of
21 a parent serving active duty to a family member of the
22 child. The bill provides that a parent who has been granted
23 court-ordered visitation with the parent's minor child may
24 file an application for modification of a decree or a petition
25 for modification of an order regarding child visitation, prior
26 to or during the time the parent is serving active duty, to
27 temporarily assign that parent's visitation rights to a family
28 member of the minor child, as specified by the parent. The
29 application or petition must be accompanied by an affidavit
30 from the family member indicating the family member's knowledge
31 of the application or petition and willingness to exercise the
32 parent's visitation rights during the parent's absence.

33 The bill also provides for an expedited hearing on the
34 application or petition if the active duty or anticipated
35 active duty of the parent affects the parent's ability to

1 appear at a regularly scheduled hearing and for presentation
2 of testimony and evidence by electronic means if the parent
3 is prevented from appearing in person due to the active duty
4 or anticipated active duty, upon reasonable advance notice.
5 "Electronic means" includes communication by telephone, video
6 teleconference, or the internet.

7 The court may grant the parent's request for temporary
8 assignment of visitation if the court finds that such
9 visitation is in the best interest of the child. However, the
10 assignment of visitation rights does not create separate rights
11 to visitation for a person other than the parent. The order
12 granting temporary assignment of visitation terminates upon
13 notification of the court by the parent or automatically upon
14 the parent's completion of active duty, whichever occurs first.

15 The bill provides that after a parent completes active duty,
16 if an application for modification of a decree or a petition
17 for modification of an order is filed, the parent's absence
18 due to active duty or the assignment of visitation does not
19 constitute a substantial change in circumstances, and the
20 court shall not consider a parent's absence due to that active
21 duty or the assignment of visitation in making a determination
22 regarding the best interest of the child relative to such an
23 application or petition filed after a parent completes active
24 duty.

25 "Active duty" is defined as active military duty pursuant
26 to orders issued under Title X of the United States Code.
27 However, the bill does not apply to active guard and reserve
28 duty or similar full-time military duty performed by a parent
29 when the child remains in actual custody of the parent.